THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.24247 of 2001

Dated : 21.09.2007

Between:

M/s Suvarna Appareal and Fashion Exports Ltd.,
a Company incorporated under the Companies Act,
having its registered office at Sy.Nos.103 to 109
and 148 to 152, Rangareddyguda village,
Balanagar Mandal, Mahaboobnagar District,
represented by its Managing Director P.Buchi Prasad.

..... PETITIONER

And:

The Appellate Authority for Industrial and
Financial Reconstruction, 10th floor,
Jeevan Prakash 25, Kasturba Gandhi Marg,
New Delhi and others.

.....RESPONDENTS

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ORDER:

Petitioner-company was incorporated on 28.06.1994 and its main object is manufacture of knitted fabrics and garments. Though the petitioner went into production in the year 1997, on account of various circumstances it had become sick unit and thus approached the second respondent-Board for Industrial and Financial Reconstruction (BIFR)

under the provisions of Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), for reconstruction of the company and the same was registered as Case No.213 of 1999. After the first meeting of the BIFR, constituted under the SICA, it declared that the petitioner-company is a sick unit and thus gave directions and guidelines for formulation of the scheme and the operating agency i.e, Industrial Development Bank of India (IDBI) was directed to examine and consider the viability of the petitioner-company. It appears IDBI examined the matter and submitted a report stating that the petitioner company cannot be revived. Pursuant to the said recommendations, BIFR passed an order on 09.10.2001 holding that the petitioner company was not interested in revival and it was not making serious efforts for rehabilitation. Questioning the said order,

petitioner-company approached the appellate authority-first respondent herein, and the appellate authority also confirmed the said order. Aggrieved thereby, this writ petition is filed.

When the matter is taken up for hearing, learned counsel for the petitioner has brought to the notice of this Court that the petitioner paid amounts to its creditors and in that context, the creditors also issued letters stating that the said amounts are paid and the petitioner company be given an opportunity for rehabilitation. The petitioner-company has also filed W.P.M.P.No.2577 of 2007 annexing the letters addressed by its creditors to establish the fact that the amounts are paid and also draft rehabilitation scheme.

In the light of the said payments made by the petitioner and the recommendations of the creditors i.e, respondents 4 to 6 that the petitioner may be given an opportunity to rehabilitate and also taking into consideration the fact that the petitioner had already filed draft rehabilitation scheme, the order dated 09.10.2001 passed by the second respondent in Case No.213 of 1999, and the order dated 13.11.2001 passed by the first respondent in Appeal No.340 of 2001 confirming the

order of the second respondent, are hereby set aside and the matter is sent back to the second respondent for fresh rehabilitation as per the draft rehabilitation scheme given by the petitioner, within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. There shall be no order as to costs.

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21.09.2007

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